

February 3, 2005
Case No.: GP-301610 (2760/26)
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-- REMARKS --

Claims 1-24 remain under consideration. Applicants request the Examiner acknowledge the previously filed amendment to the specification.

A. Claims 1, 10, and 16 were rejected under 35 U.S.C. § 112 as indefinite

The §112 rejection of claims 1, 10 and 16 is traversed as the claims are not indefinite. In order to comply with §112, the definiteness of the language is analyzed in light of the disclosure, and not in a vacuum. *See*, MPEP §2106. The Examiner's rejection is not grounded in law, as the rejection is based on "the preamble is not tied to the rest of the claim."

Withdrawal of the §112 rejection is requested.

B. Claims 1, 2, 10-11, and 16-17 were rejected under 35 U.S.C. § 102(e) as anticipated by King

The §102(e) rejection of claims 1, 2, 10-11, and 16-17 as anticipated by King is traversed. In order to maintain this §102(e) rejection, each and every element of the claims must be taught or suggested in at least as great detail as claimed. As King fails to disclose, at least, "requesting communication from one of the primary communication device and the second communication device based on the capability determination," as claimed in independent claims 1, 10, and 16, the rejection must fail.

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King discloses, in para. 41, that the "inter-device linking server 402 *can forward* the linking request to the linking agent associated with the appropriate device." (emphasis added). Therefore, King does not disclose "requesting communication" but rather forwarding a linking request. Furthermore, the instant claim requires "requesting communication from one of the primary communication device and the secondary communication device based on the capability determination," whereas King discloses that the linking request occurs prior to the determination.

Therefore, King cannot anticipate claims 1, 10 and 16. Claims 2, 10, and 17 depend directly or indirectly from claims 1, 10, or 16 respectively and are therefore patentable over King for at least the same reasons.

Withdrawal of the rejections to claims 1-2, 10-11, and 16-17 is requested.

C. Claims 3-9, 12-15, and 18-24 were rejected under 35 U.S.C. § 103(a) as unpatentable over King in view of Khullar

The rejections to claims 3-9, 12-15, and 18-24 are traversed. Each of these claims depend directly or indirectly from claims 1, 10, or 16 and is therefore patentable over the prior art for at least the same reasons.

Furthermore, the Examiner's reliance on Khullar is misplaced. By teaching a single device with multiple technologies, Khullar unequivocally teaches away from the instant invention.

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Additionally, Khullar does not teach or suggest that "the battery life viability is based on a power state and a power life," as claimed in claims 4 and 19. The Examiner cites to column 4, lines 1-4 for support of this rejection, but no support may be found at that selection. Likewise, Khullar does not teach or suggest "determining a calibrated threshold for the battery life viability," as claimed in claims 5, 12, and 12. Id. Neither does Khullar teach or suggest "determining the battery life viability if the calibrated threshold is exceed," (claims 6, 13, and 21) "determining a calibrated threshold for the received signal strength," (claims 7, 14, and 22) nor "determining the received signal strength indication if the calibrated threshold is exceeded," (claims 8, 15, and 23).

Withdrawal of the rejections is requested.

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CONCLUSION

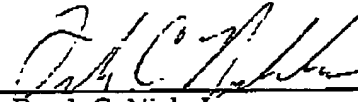
The Applicants respectfully submit that claims 1-24 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

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Respectfully submitted,
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